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Driving Pedestrian Traffic to Law Journals

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Recent technological advances enable the legal academy and law student editors to embed aids to understanding the law journal's content in the articles and student notes published there. As there are compelling social purposes for making the content of law journals more accessible to lay inquirers, the author advocates incorporating into law journals devices such as QR codes and content summaries written for the layperson.

As technology becomes more complex, Apple's core strength of knowing how to make very sophisticated technology comprehensible to mere mortals is in ever greater demand.

—Steve Jobs1

¶1 In the age of cyberspace, it is both logical and appropriate to trumpet the value proposition in law journal production. Publishing legal scholarship is the author's and the journal's intentional, joint act of instruction—producing knowledge about the law and its institutions.2 That does not mean, however, that publication of scholarship equates to wide dissemination of that knowledge. Multidisciplinary emphases and increasing specialization by legal scholars steer their works toward obscure routes poorly navigated by outsiders. This fact defines the divide between utility and accessibility that Steve Jobs effectively and repeatedly bridged as Apple, Inc., created consumer products.

¶2 Legal scholarship is not a consumer product3—nor does it sell in printed format.4 While that may be no cause for concern, neither does this fact bestow

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3. The view that law reviews primarily serve their authors, not their readers, and are published essentially "in order that they may be written" is hardly new, see Harold C. Havighurst, Law Reviews and Legal Education, 51 NW. U. L. REV. 22, 24 (1956–57); but the notion that publication without readership satisfies the aims of the legal academy's scholars is cynical indeed. Even those who best understand the difficulties in reaching an ill-defined audience appreciate that one nonetheless must exist. See, e.g., Banks McDowell, The Audiences for Legal Scholarship, 40 J. LEGAL EDUC. 261, 277 (1990) ("The concept of an interior dialogue ... carries the danger of solipsism. ... [T]he scholar who writes for a nonexistent audience [is] engaged in [a] solitary and irrelevant activity."). McDowell notes that a scholar "ceasing to be part of the interpretive community that includes law students, lawyers, and judges seriously undercuts his or her claim ... for support" from his or her employing institution. Id.
bragging rights. Law review writing can and should be more accessible, and thereby more relevant, to the full community of scholars and students within and outside the legal academy. An understanding of the law by a broad spectrum of inquirers is decidedly in the public interest. Further, law schools earn tuition and fees revenue partially via federally subsidized student loan programs funded by taxpayers, who unquestionably are heartened when scholarly outputs seem purposeful. Today’s technology permits students, academics in nonlaw fields, and literate laypersons to be exposed to the political views, theories, and philosophies of legal scholars. Technology can likewise be used to provide background and context that will make the scholarship accessible—at an education-appropriate level—to the reader.

the most prestigious American law journal and the one having the most subscribers to its print version, now sells approximately 1900 hard-copy subscriptions annually, while the Stanford Law Review’s paid circulation was approximately 975 in 2011. Id. at 179, 182. A sensible, albeit not the only logical, conclusion is that the Harvard Law Review’s material may not be highly accessible to the non-legal-scholar universe of inquirers about the law. That cannot be proven, however, without knowing the number of visits to the online versions of the Harvard Law Review and Stanford Law Review. Ranking.com ranks www.harvardlawreview.org number 238,951 in visitors as of May 2012 (http://scripts.ranking.com/data/report_domain.aspx?heurl=harvardlawreview.org), while www.stanfordlawreview.org ranks 603,077 as of April 2012 (http://scripts.ranking.com/data/details.aspx?heurl=stanfordlawreview.org). Ranking.com contains “monthly traffic rank” information showing trends for each journal, and there are wide swings in the ranking numbers for both journals over time.

5. The imperative for public legal education is the subject of much conversation in the English-speaking world, as institutions recognize the utility of individual awareness, knowledge, and understanding of personal rights and legal issues as part of everyday living. See, e.g., PLEAS TASK FORCE, DEVELOPING CAPABLE CITIZENS: THE ROLE OF PUBLIC LEGAL EDUCATION (July 2007), available at http://www.lawcentres.org.uk/uploads/PLEAS_Task_Force_Report.pdf; Richard A. Danner, Open Access to Legal Scholarship: Dropping the Barriers to Discourse and Dialogue, 7 J. INT’L. COM. & TECH. 65, 68 (2012) (“The continuing publication of law journals in legal systems of all types and the growth in new titles suggest both the ongoing importance of the traditional journal article and the value to scholars and others of having access to legal scholarship”; and “[i]n law, it can be argued that legal scholars have a particular responsibility to make their work available because of the impact of law on the daily lives of the public, and the influences of legal scholarship on those who make the laws.”); Tim Eigo, Dean at Center Stage: ASU Law’s Paul Schiff Berman, ARIZ. ATT’Y, Feb. 2009, at 32, 36 (Berman opines that legal education should be available to people who are not planning to be lawyers, including undergraduates, and that every American citizen would benefit from at least one year of legal training).

6. Cf. Philip G. Schrag & Charles W. Pruett, Coordinating Law School Loan Repayment Assistance Programs with New Federal Legislation, 60 J. LEGAL EDUC. 583, 583 (2011) (noting that Congress “pass[ed] four laws between 2005 and 2010 that collectively reduce the debt repayment burdens on graduates, particularly (though not exclusively) those in public service,” enabling law schools to create or restructure loan programs affording debt relief “to graduates in public service at the lowest possible cost to the school”).

7. Of course, the legal scholars must have the commitment to reach out to these audiences. See, e.g., Jack M. Balkin, Online Legal Scholarship: The Medium and the Message, 116 YALE L.J. POCKET PART 23, 29–30 (2006), http://yalawjournal.org/images/pdfs/55.pdf (“The right question is how we should re-imagine our vocation as professors of law in light of new online media. Should we continue to speak mostly to ourselves and our students, or should we spend more time trying to teach and influence the outside world?”).
§3 Steve Jobs knew a valued consumer product must offer aesthetics, utility, and user accessibility—what Jobs termed "friendliness." Most law journal writing exhibits some of these qualities, but least among them is friendliness to persons not knowledgeable about the topic(s) of the author's paper. Elevating the relevance of law journals to a broader readership is not only possible, the method I propose in this article would also consume relatively little time and other resources. It requires modest effort from law journal editors and law school librarians, but that collaborative effort will be repaid by the knowledge that one product of a law journal's published scholarship is increased public engagement with legal subjects.

§4 The minimal logistics are as follows. At the end of each law journal article, an appendix would be provided, written by someone other than the author. The appendix would have two components. The first element is a terse but layperson-accessible summary of the paper's most important arguments and ideas. The second element is a series of Quick Response (QR) codes inserted at the end of the


10. See, e.g., Ruth Bader Ginsburg, Address, Communicating and Commenting on the Court's Work, 83 GEO. L.J. 2119, 2127 (1995) ("some in the academy are writing on topics or in a language ordinary judges and lawyers do not comprehend"). See also Brandt Goldstein, Lost in Translation: Some Brief Notes on Writing About Law for the Layperson, 52 N.Y.L. SCH. L. REV. 373, 376 (2007–2008) (noting that the fundamental challenge for those who write on law for the general public is in making the language, concepts, procedures, and rituals of law more accessible).

11. There are several technologies available that use metrics to promote public "engagement" with law journal web sites; for example, ClickTale (http://www.clicktale.com), Chartbeat (http://chartbeat.com), and Google Analytics (http://www.google.com/analytics) all can be used to analyze web site data. They score what draws viewers to a web site initially, the proportion of visitors who navigate away from the web site without clicking beyond the first page encountered, how many pages users are viewing on an individual visit to the web site, and what page of the site users are viewing when they leave the web site. Google Analytics provides a visual representation of how the traffic on a web site branches off to different parts of the site, and you can see graphically how many people depart a site after one or two clicks. Dean Takahashi, Google Analytics Can Visualize Traffic Data for Web Sites, VENTURE BEAT (Oct. 19, 2011), http://venturebeat.com/2011/10/19/google-analytics-can-visualize-traffic-data-for-web-sites. These data can be used to optimize the web site to attract those searching for information; but analytical information benefiting the web site creator does little to aid understanding of the intellectual substance of legal scholarship presented by a law journal. Keele and Pearse advocate disseminating journal content via social media web sites and web applications for smartphones, other means for providing accessibility to the public without requiring the inquirer to have sophisticated search skills. Benjamin J. Keele & Michelle Pearse, How Librarians Can Help Improve Law Journal Publishing, 104 LAW LIBR. J. 383, 404–05, 2012 LAW LIBR. J. 28, ¶¶ 51–53.

12. See, e.g., Keele & Pearse, supra note 11, at 384, ¶ 4 (law school libraries should "support their journals' evolution in the new digital publishing landscape by advising and supporting innovative initiatives in publishing, [and] becoming more engaged in supporting the editorial production of the journal").

13. The term "QR code" is a registered trademark of Denso Wave, Inc., the Japanese inventor of the QR code and holder of several patents on the technology. Darla W. Jackson, Standard Bar Codes Beware—Smartphone Users May Prefer QR Codes, 103 LAW LIBR. J. 153, 153, 2011 LAW LIBR. J. 9, ¶ 2. In the United States, in June 2011, fourteen million "mobile" users scanned a QR code or a bar code. Press Release, comScore, Inc., 14 Million Americans Scanned QR Codes on their Mobile Phones in June
summary to guide inquirers with smartphones and tablet computers. These
codes would then link the reader to secondary sources related to the main ideas in
the paper. The sources would be labeled by reading difficulty; thus, sources should
be provided that are appropriate for advanced high school students and for college
graduates. There should be no requirement that the sources be textual material.
Scanning a QR code may lead the inquirer to, for instance, podcast interviews with
the author, webinar contributions on related subjects at a bar convention program,
a YouTube video of a classroom session by the author—essentially to any more
introductory-level treatment on a topic the same as or related to that of the
article.

§5 The author of the scholarship likely is not best suited for the tasks of prepar-
ing summaries and identifying links to collateral material. Some legal scholars are
inclined to write in obtuse and verbally viscous language. Summaries need to be
easily understood digests of the main ideas, described in simple vocabulary and
stylish syntax. Further, most legal scholars have a head start of years, if not
decades, in reflecting on the subjects of their work. Their depth of understanding
may make it challenging for them to produce simplified digests of arguments and
main ideas and recognize basic background sources. My choice of candidates to

_Americans_Scanned_QR_or_Bar_Codes_on_their_Mobile_Phone_in_June_2011. Competing
standards, such as Data Matrix, are also available, and I do not advocate the use of any one protocol or
standard, but simply urge providing one or more platforms for “backtracking” research. QR codes can
be used natively in Google’s Android operating system and the Maemo operating system, and applica-
tions exist for most other mobile platforms. Kimberly Reynolds, What Is a QR Code and Why Do

These codes should appear in both the paper and the electronic versions of the articles on
the web site of the publishing law journal, on the papers stored in digital repositories of the authors’
law schools, and on the sites of journal aggregators like HeinOnline. Unfortunately, Westlaw and
LexisNexis strip out graphical elements when adding articles to their legal scholarship databases.
Penny A. Hazeltin, How Much of Your Print Collection Is Really on WESTLAW or LEXIS-NEXIS?,
18 LEGAL REFERENCE SERVICES Q., no. 1, 1999, at 3, 10. The opportunity to add subscribers to their
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15. There is reason to anticipate near-term availability of affordable tablets. A seven-inch touch-
screen tablet is designed and manufactured by DataWind, Ltd., in Canada, in partnership with the
Indian government. It is powered by Android, has thirty-two gigabytes of storage, and costs the
($35 is the price the government would charge students). Apart from sovereign-subsidized technol-
ogy, the Grid 10, a ten-inch tablet from Singapore’s Fusion Garage with an Android platform, sells for
as little as $299. See Walter S. Mossberg, Grid 10 Tablet Hides Android Under Its Own Radical Design,
WALL ST. J., Oct. 6, 2011, at D1. These developments suggest that the ability to scan QR codes will
soon be commonplace around the world.

16. See, e.g., Robert W. Gordon, Lawyers, Scholars, and the “Middle Ground,” 91 MICH. L. REV.
2075, 2076 (1993) (“The legal-academic machine is undoubtedly cranking out a good deal of useless
blather: . . . articles clotted with hermetic jargon”). See also Joshua D. Baker, Note, Relics or Relevant?
The Value of the Modern Law Review, 111 W. VA. L. REV. 919, 927 (2009) (collecting citations to cri-
tiques of law review authors’ syntax and prose).

Sword charges that “many academics pay no attention to their audience: They write, but they don’t
communicate,” lacking the voice that connects a writer’s material to his readers.
prepare article summaries is the law journal’s second-year writing staff. They are distinctly positioned as persons who are sufficiently grounded in basic propositions of law and much of its unique vocabulary without being too invested in esoteric dimensions of the law. Preparing a summary of a work requires additional thought about the work beyond cite-checking the author’s authorities, thereby enriching the editing experience. Furthermore, since a lawyer’s role in part is to simplify for judges and juries the complexities of legal matters, it is good training to write comprehensible summaries of major arguments and ideas.\footnote{19}

§6 Combining the efforts of law library staff with the scholar’s research assistant for selection of the collateral material to be reached by scanning QR codes seems optimal. The assistant has spent much time searching for authorities and this likely has led her to sources that, although inappropriate for citing in the article’s footnotes, may be well suited for collateral “study materials.” Law library staff members are experienced in interviewing inquirers, understanding their capabilities, and finding information that suits the level of an inquirer’s sophistication. Of equal consequence is that law librarians are attuned to the protection of intellectual property rights.\footnote{20} Further, they are familiar with open access sources and user-generated content services.\footnote{21}

§7 Sources to be appended via QR codes must be Internet-based for ease of public accessibility. Source candidates must be vetted for two purposes: quality and propriety, within reasonable boundaries. Quality does not dictate reference to print material alone; for example, animated cartoons exist that, although seemingly frivolous in composition, can be quite educational.\footnote{22} The sources’ content must be supported by evidence or logic—preferably both—to meet the quality standard. Propriety is not synonymous with political correctness in the academic environment. Respect must be accorded to persons of all walks of life and to differing viewpoints; therefore, the linked sources cannot be calculated to incite passion instead of reflection. The more sources provided for the paper, the better, so long as the focus is on affording relevant content with varied reading levels.\footnote{23} Finally, journal staff and

\footnote{18. There is no special magic to abstract authorship, so long as the product is comprehensible to a literate person; in some law journals, members of editorial boards currently routinely prepare synopses of articles. For example, the ABA’s Real Property, Trust and Estate Law Journals is published with the aid of students at the University of South Carolina School of Law. Law librarians, who are positioned to facilitate discoverability by researchers, can make significant contributions to the selection of terms and language in abstracts that will ensure accessibility of the scholarship. See Keele & Pearse, supra note 11, at 399, ¶ 43.}

\footnote{19. See, e.g., Jim Sullivan & Donald Rez, Let’s Get Rid of Big Cases, Litig., Summer 1981, at 8, 8 (advocating that law schools teach students the use of plain words in pleadings, as no real effort at the bar exists to translate complicated business, economic, and legal concepts into easy-to-comprehend language).}

\footnote{20. See Keele & Pearse, supra note 11, at 385–87, ¶¶ 6–12.}

\footnote{21. See id. at 386, ¶ 11.}

\footnote{22. E.g., Ben & Abe Discuss the 5th Amendment, YouTube (Sept. 24, 2009), http://www.youtube.com/watch?v=IV9l5rYPrYo&feature=related.}

\footnote{23. The Flesch-Kincaid formula is readability’s “industry standard”: Reader’s Digest magazine has a readability index in the mid-60s, Time Magazine’s index is in the low 50s, and the Harvard Law Review has a general readability score in the low 30s. “[E]xperts suggest a score of at least 60 to 70, which is considered easily understandable by 8th and 9th graders.” Alecia M. McDonald et al., A Comparative Study of Online Privacy Policies and Formats (2009), draft available at http://www.aleecia.com/authors-drafts/PETS-formats-IV.pdf, at [5].}
librarians should coordinate minimization of "link rot" by citing stable URLs for the sources linked, perhaps retaining a commercial service to ensure that a cited web site remains accessible to inquirers.24 An alternative to placing the collateral sources and summaries at the end of the journal-published article is announcing the article's production on the law journal's web site or blog and placing the QR codes on the applicable web site/blog "contents" page. This process promises to be less effective than having the summary and links at the end of each article, as more inquirer effort is involved, decreasing the chances of their finding collateral material.

9 Since the journal will be appending accessibility links to the scholarship, there may need to be changes to the journal's publication agreement, authorizing the journal to develop a paper's summary and collateral source links.25 Journal staff should expect many authors to want some reasonable right of approval of the summary's text (to ensure their main ideas and arguments have been properly digested) and of the sources to be linked to their scholarly works.

10 Bruce Cole of the Hudson Institute said about the popularization of history writing: "Not all professors should be writing for a general readership, but more should try. Much important and fascinating research is unavailable to the public simply because the discoverers lack the will or the talent to reach beyond their familiar circle."26 Cole referred to the circle comprising other professors, "mainly... those colleagues toiling in the same small subset" of scholarship.27 Cole sensed that many academics view transcending the circle's boundaries to be both degrading and potentially career damaging—to Cole a not entirely irrational fear, since "progress through the ranks is dependent on the judgment of scholarly peers."28 But the modest proposals to increase accessibility in this article require no compromise of intellectual rigor or gravitas of the legal scholar's work and virtually no additional effort on the scholar's part.

11 The legal scholar's important ideas and compelling arguments, when more accessible to the intellectually curious, become more educationally useful.29 And the scholar's work, if more accessible, pays a dividend to the scholar through increased citation of her works.30 If Steve Jobs had addressed the challenge of mak-

24. See Kele & Pearse, supra note 11, at 402–03, ¶ 47.
27. Id.
28. Id.
29. Sword advocates for the dual purposes of utility and convenience by concluding: "Stylish academic writers are committed to making their research consequential and accessible." Sword, supra note 17.
30. The citation advantage inherent in publishing in open access law journals has been documented when the lack of subscription costs eliminates readership barriers. James M. Donovan & Carol A. Watson, Citation Advantage of Open Access Legal Scholarship, 103 LAW LIBR. J. 553, 2011 LAW LIBR. J. 35. Translation of opaque syntax and arcane jargon of legal scholarship via summaries prepared in lay-reader-comprehensible prose can only widen exposure to the work, thereby improving
ing legal scholarship accessible, he might have again quoted Leonardo da Vinci's phrase that "simplicity is the ultimate sophistication," while proposing an elegant, no-frills enhancement of the user-friendliness of scholarship for persons curious about the law. Law journals and their educational institution sponsors should experiment with linking scholarly works to background materials to enhance their publications' public utility. They may think of it as a sort of corporate social responsibility, but if journal content serves to "liberate confined legal thought to real-world problems," then that thought should be communicated so as to teach.

**Summary**

Today's technology permits students, academics in nonlaw fields, and laypersons to be exposed to the political views, theories, and philosophies of legal scholars. Law journals and their supporting institutions should provide background and context to this scholarly output by summarizing the published works and linking them, using devices like QR codes, to readily understood, simply expressed background materials. This effort will make the published scholarship accessible—at an education-appropriate level—to the inquiring reader. The QR codes below lead the reader to an encyclopedia-type article on law journals (leftmost icon), to an advanced article by a scholar on the history of the American law review and its survival prospects in the cyberspace era (middle icon), and to a web site describing the development and applications of QR codes in education (rightmost icon).

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cross-disciplinary citation counts. Since legal scholarship is increasingly interdisciplinary, greater frequency of citation of such work by scholars in all fields indicates purpose and value of the work transcending the legal academy's boundaries—a desired end, it would seem.